

FILED
U.S. DISTRICT COURT
BALTIMORE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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UNITED STATES OF AMERICA

CLERK'S OFFICE
AT BALTIMORE

v.

* Criminal No. - JFM-13-0696 IT
* Civil No. JFM-16-1566

JOSE ADOLFO BENITEZ-ALVARADO

MEMORANDUM

Jose Benitez-Alvarado has filed this motion under 28 U.S.C. §2255. He claims that his sentence should be reduced under *Johnson v. United States*, 135 S. Ct. 2551 (2015). Benitez-Alvarado's motion will be denied.

Benitez-Alvarado was given a 16-level enhancement under U.S.S.G. § 2L1.2(b)(1)(A) because he previously had been deported following a conviction of a crime of violence. Section 2L1.2(b)(1)(A) does not include a clause resembling the clause in the Armed Career Criminal Act that was found to be constitutionally infirmed in *Johnson*. Accordingly, Benitez-Alvarado's claim is without merit.

Date: *Nov 4, 2016*

12/1/16
J. Frederick Motz
United States District Judge